NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HERYADI KURNIA, Petitioner, v. JOHN ASHCROFT, Attorney General, Respondent.	No. 03-72417 Agency No. A79-587-380 MEMORANDUM[*]

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted August 10, 2004[**]
San Francisco, California

Before: PREGERSON, KOZINSKI, and HAWKINS, Circuit Judges.

The Immigration Judge's ("IJ") finding that Kurnia failed to establish past

persecution was supported by substantial evidence. *See Wang v. Ashcroft*, 341

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[*]   This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

[**]   This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

F.3d 1015, 1019-20 (9th Cir. 2003). Even if the events Kurnia complains of were sufficiently severe to rise to the level of persecution, Kurnia failed to establish that the alleged acts were perpetrated by the government or individuals that the government was unable or unwilling to control. *See Singh v. INS*, 134 F.3d 962, 967 n.9 (9th Cir. 1998). For the same reason, the IJ's finding that Kurnia has failed to establish a well-founded fear of future persecution is supported by substantial evidence. *See Nagoulko v. INS*, 333 F.3d 1012, 1016 (9th Cir. 2003).

Because Kurnia has failed to establish a well-founded fear of future persecution, his asylum claim must fail. *See Padash v. INS*, 358 F.3d 1161, 1166-67 (9th Cir. 2004). Because Kurnia's asylum claim fails, his claim for withholding of removal necessarily fails as well. *Halaim v. INS*, 358 F.3d 1128, 1132 (9th Cir. 2004). Further, as Kurnia has not established that it is more likely than not that he will be tortured if returned to Indonesia, we cannot conclude that the IJ erred in denying relief under the Convention Against Torture. *See* 8 C.F.R. §§ 208.16(c)(2), 208.18(a)(1).

For the foregoing reasons, we conclude that the petition must be **DENIED.**